

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Takuji MAEDA et al. Group Art Unit: 2186
Appln. No. : 10/577,418 Examiner: M. Alsip
Filed : April 27, 2006 Confirmation No.: 3319
For : INFORMATION RECORDING MEDIUM, INFORMATION RECORDING MEDIUM ACCESSING APPARATUS AND ACCESSING METHOD

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Final Office Action of June 3, 2010, in which a three-month shortened statutory period for response was set to expire on September 3, 2010, Applicants request a Pre-Appeal Brief Panel to review and withdraw the rejections set forth in the Final Office Action.

REMARKS

In the outstanding Office Action, claims 24 and 41 were rejected under 35 U.S.C. §112, first paragraph. Claims 24-25, 27-41 and 43-46 were rejected under 35 U.S.C. §102(b) over OUCHI (JP 2000181784).

Characteristic features of the information recording medium recited in claim 24 include:

- a first recording area in which data writing is managed in a first access unit
- a second recording area in which data writing is managed in a second access unit larger than the first access unit
- a controller operable to control access to the first or second recording area according to the received command and without regard to size of the received data;

- when receiving a write command, the controller controls the access so as to select the first or second recording area depending on a data type of the received data and to write the received data to the selected area

With respect to the rejection of claims 24 and 41 under 35 U.S.C. §112, first paragraph, the Final Office Action asserts that the features of selecting a data writing area without regard to size of received data is unsupported by and inconsistent with the teachings of Applicants' specification. The Final Office Action incorrectly cites portions of Applicants' specification as supporting features inconsistent with the features of Applicants' claims. However, the Final Office Action is incorrect. Applicants' specification teaches, throughout, that a data writing area is selected based on the type of data to be written. Applicants' claims recite that a data writing area is selected depending on data type and without regard to size of received data.

The portions of Applicants' specification cited as being inconsistent with selecting data writing area without regard to size of received data actually only specify that a physical starting address within a selected area is determined based on size of data. This is in no way inconsistent with selecting the area itself based on type of data without regard to size of received data, as selection of the physical starting address only occurs once/after the area itself is selected. The recitation of the claim is in no way inconsistent with the cited teachings in the specification. Insofar as the features of claims 24 and 41 recite that access to a first or second recording area is controlled... without regard to size of the received data, these features are fully supported by the specification. That is, selecting an area for writing data is different than determining a starting address for writing data within the selected area. There is nothing confusing or indefinite about these concepts, and the claim recitations are supported by and consistent with Applicants'

specification. Therefore, the rejection of claims 24 and 41 under 35 U.S.C. §112, first paragraph should be withdrawn.

With respect to the rejection of claims under 35 U.S.C. §102(b) over OUCHI, Applicants have shown several times in previous Responses/Amendments/Submissions that OUCHI discloses using the size of data, and particularly the number of sector regions to which data is to be written, when determining where to write data of a file. The consideration of size of data in determining where data will be stored in OUCHI has been acknowledged in the past by the Examiner, such as at page 9 of the previous Office Action dated January 14, 2010.

OUCHI discloses using the size of data, and particularly the number of sector regions to which data is to be written, when determining where to write data of a file received from outside. In the English language Abstract, OUCHI states that data is stored in the flash memory chip 14 when the data is not one sector size, and in the flash memory chip 13 when the data is one sector size. This, of course, means that a data writing area is selected based precisely on the size of the data to be written, and is squarely in contrast with the features of claims 24 and 41. Similar teachings are present throughout OUCHI, and there is no teaching anywhere in OUCHI that a storage area is selected independent of size of data.

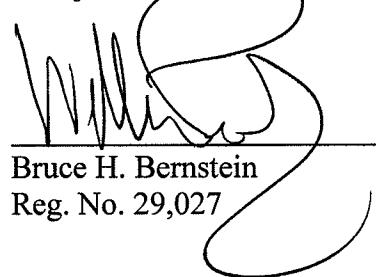
These features of claims 24 and 41 are only representative of the differences between Applicants' claims and the teachings of OUCHI, and Applicants have previously explained additional differences between the claims and the teachings of OUCHI. Nevertheless, Applicants' previously amended the claims in order to specify the above-noted features so as to advance prosecution and obtain early allowance of claims. The rejection of claims under 35 U.S.C. §102 over OUCHI even after the claims were amended to include these features is wholly unwarranted, and should therefore be withdrawn.

For the reasons set forth herein and in Applicants' previous Responses/Amendments/Submissions, OUCHI does not explicitly or inherently disclose the features of amended claims 24 and 41. Therefore, OUCHI does not disclose "each and every" feature of independent claims 24 and 41, as would be required for claims 24 and 41 to be properly rejected over OUCHI under 35 U.S.C. §102. Therefore, independent claims 24 and 41 are allowable under 35 U.S.C. §102 over OUCHI. Dependent claims 25, 27-40 and 43-46 are allowable over OUCHI at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Similarly, the features of claims 24 and 41 are fully supported by and consistent with Applicants' specification. Accordingly, each of the claims now pending is allowable under 35 U.S.C. §112, first paragraph.

Should there be any questions, any representative of the U.S. Patent and Trademark Office is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Takuji MAEDA et al.



Bruce H. Bernstein
Reg. No. 29,027

William Pieprz
Reg. No. 33630

September 2, 2010
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191